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No. 80-5516

IN THE

# Supreme Court of the United States

October Term, 1980

WORLDWIDE CHURCH OF GOD, INC. *et al.*,

*Petitioners,*

*vs.*

THE PEOPLE OF THE STATE OF CALIFORNIA,

*Respondent.*

## MEMORANDUM IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI.

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Respondent submits this memorandum in opposition to the petition for writ of certiorari. Petitioners challenge certain actions of a receiver *pendent lite* (appointed by the trial court to safeguard assets of three charitable non profit corporations and obtain an accounting) as being illegal searches and seizures. Respondent believes that a brief in opposition to this petition is unnecessary for the reason that the Fourth Amendment arguments raised here have been previously raised by these petitioners, in a prior petition for a writ of certiorari. Respondent filed a brief in opposition to that prior petition, and this Court denied certiorari on June 2, 1980. (See, case No. 79-1348, October Term, 1979.) In that petition these same petitioners challenged a series of six discovery orders of the trial court as lacking the "factual basis and narrow scope required by both the First and Fourth

Amendments." (Petition No. 79-1348, p. 29.) Those orders required disclosure to respondent of financial information similar to that contained in the financial records of which the receiver took possession. (Petition No. 79-1348, p. 29.) Petitioners also there argued that such discovery orders were the product of an illegal search and seizure by the receiver, in that the Attorney General had based his requests for discovery upon information gathered in that allegedly illegal search, and in that the trial court had enforced this discovery by means of the orders which petitioner there sought to have this Court review. (Petition No. 79-1348, p. 41.) In support of their arguments, petitioners there cited many of the same cases they now cite in the instant petition. (Petition No. 79-1348, p. 42, note 71.)

In addition, respondent submits that the instant petition is premature. The instant petition challenges the validity of the receiver's action, taken pursuant to court order, in taking possession of some of petitioners' financial records. The validity of the receiver's action may hinge, in part, upon the legality of the order appointing him, which order is now on direct appeal in the California Court of Appeal, 2d Appellate District, Civil No. 57321. While the instant petition does not appear to argue that the receiver was illegally appointed, the validity of his appointment will certainly affect the validity of his subsequent actions, which petitioners here attack. Respondent therefore submits that this

court should abstain from acting on the instant petition under the principles of *Younger v. Harris* (1971) 401 U.S. 37, and *Moore v. Sims*, (1979) .... U.S. .... , 60 L.Ed 2d 994. Respondent fully briefed the abstention issue in its brief in opposition to the above-mentioned prior petition for writ of certiorari in case No. 79-1348.

Respectfully submitted,

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